

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

FULLERTON ELEMENTARY SCHOOL
DISTRICT.

OAH CASE NOS. 2012041011 and
2011081127

ORDER GRANTING MOTION TO
CONSOLIDATE

On August 26, 2011, the Fullerton School District (District), through counsel, filed with the Office of Administrative Hearings (OAH) a Request for Due Process Hearing that named Student (District Complaint). OAH assigned case number 2011081127 to the District Complaint. Currently pending in the District Complaint is a hearing set for April 30 to May 3, 2012.

On April 23, 2012, Student, through counsel, filed with OAH a Due Process Hearing Complaint that named the District (Student Complaint). OAH assigned case number 2012041011 to the Student Complaint. Currently pending in the Student Complaint is a mediation set for May 30, 2012, a prehearing conference set for June 13, 2012, and a due process hearing set for June 19, 2012.

Also, on April 23, 2012, Student filed with OAH a Motion to Consolidate which seeks to join the District Complaint and the Student Complaint. On April 25, 2012, the District filed with OAH an opposition to the motion.

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, OAH will generally consolidate matters that involve: a common question of law and/or fact; the same parties; and when consolidation of the matters furthers the interests of judicial economy by saving time or preventing inconsistent rulings. (See Gov. Code, § 11507.3, subd. (a) [administrative proceedings may be consolidated if they involve a common question of law or fact]; Code of Civ. Proc., § 1048, subd. (a) [same applies to civil cases].)

Here, the District Complaint and the Student Complaint involve common questions of law or fact, such that consolidation will further the interests of judicial economy. Accordingly, consolidation is granted.

ORDER

1. Student's Motion to Consolidate is granted.

2. All dates previously set in OAH case number 2011081127 (District Complaint) are vacated.
3. The mediation and hearing dates in OAH case number 2012041011 (Student Complaint) shall become the mediation and hearing dates for the consolidated matters, unless otherwise ordered.
4. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of the complaint in OAH case number 2012041011 (Student Complaint).

Dated: April 26, 2012

/s/

TIMOTHY L. NEWLOVE
Presiding Administrative Law Judge
Office of Administrative Hearings